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MONTANA LEGISLATIVE HISTORY

Chapter 230 1991

Bill H 279 S _____ Original bill & history ✓C

H. Committee on Business & Eco. Dev.		S. Committee on Business & Industry	
Hearing Date(s) 1-29	✓C	Hearing Date(s) 3-7	✓C
_____	___C	_____	___C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out _____	___C		

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

LC 1347/01

HOUSE BILL NO. 271

INTRODUCED BY Raney, Driscoll, Van Valkenburg, Menahan, Cyrnek, Meyer, Hockett, Clark, Whalen

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE PUBLIC SERVICE COMMISSION TO REQUIRE A REAR-END TELEMETRY SYSTEM ON CERTAIN RAILROAD TRAINS; AND AMENDING SECTION 69-14-116, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-14-116, MCA, is amended to read:

"**69-14-116. General protection of health and safety on railroads** -- rear-end telemetry systems. (1) The commission ~~shall have~~ has full authority:

(a) after notice and hearing, to make and enforce rules providing for the installation on and equipment of trains, cars, or engines with safety appliances and providing for sanitation and adequate shelter as it affects the health of all railroad employees, including but not limited to trainmen, enginemen, yardmen, maintenance-of-way employees, highway crossing watchmen, and clerical, platform, freight house, and express employees; and

(b) to inspect the ~~same~~ safety appliances, sanitation facilities, and shelters and enforce regulations with regard ~~thereto~~ to the provisions of subsection (1)(a).

(2) (a) The commission shall require a railroad operating trains in Montana to install a rear-end train telemetry system:

(i) on all trains operating within mountain grade territory as geographically defined and designated by mile posts in the railroad's official timetable and operating rules on file with the commission; and

(ii) on all trains both originating and terminating within Montana.

(b) As used in this section, "telemetry system" means a radio transmitter and receiver system with one device placed on the last car of a train and a second device placed in the cab of the controlling locomotive. The second device must be visible to the locomotive engineer and capable of indicating through electronic communication with the device located on the last car of the train the following:

(i) brake pipe pressure at the rear of the train, in increments of 1 pound per square inch;

(ii) rear car movement;

(iii) operation or nonoperation of the rear marker light;

(iv) remaining battery life powering the telemetry system;

(v) interruption of the communication link between the device located on the last car of the train and the device located in the cab of the controlling locomotive; and

INTRODUCED BILL
HB 271

(vi) total distance travelled in feet by the locomotive to which the device is attached.

(c) A train operating in the area defined under this subsection (2) may not depart a crew change point or its local point of origin unless the train is equipped with the telemetry system required under the rules established pursuant to this section.

(d) Telemetry systems installed on a train in conformity with rules made under this section must be equipped so that an emergency application of brakes of the train can be initiated by activation of the device placed on the last car at the rear end of the train.

(e) Disciplinary action or other adverse administrative or employment action may not be instituted against a person who reports a violation of this subsection (2) or who acts to enforce the provisions of this subsection (2).

~~(2)~~(3) ~~Such~~ The inspection, rules, and regulations ~~to~~ required under subsections (1) and (2) must ~~be from time to time coextensive with the requirements of and in conformity to the provisions of the acts of congress and rules and regulations of the interstate commerce commission and the department of transportation, as then effective~~ compatible with any federal provisions and May not create an undue burden on interstate commerce."

NEW SECTION. **Section 2.** Severability. If a part of

[this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-End-

HB 279 INTRODUCED BY SCHYE, ET AL.

PROHIBIT USE OF AUTO TELEPHONE SYSTEM, DEVICES, OR FACSIMILE FOR SPECIFIC USE

1/19	INTRODUCED		
1/19	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
1/21	FIRST READING		
1/29	HEARING		
1/30	COMMITTEE REPORT—BILL PASSED		
2/01	2ND READING PASSED	97	1
2/04	3RD READING PASSED	98	0
	TRANSMITTED TO SENATE		
2/05	FIRST READING		
2/05	REFERRED TO BUSINESS & INDUSTRY		
3/07	HEARING		
3/07	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/11	2ND READING CONCURRED	49	0
3/12	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
3/16	2ND READING AMENDMENTS CONCURRED	88	1
3/18	3RD READING AMENDMENTS CONCURRED	96	0
3/22	SIGNED BY SPEAKER		
3/23	SIGNED BY PRESIDENT		
3/25	TRANSMITTED TO GOVERNOR		
3/29	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 230	EFFECTIVE DATE: 10/01/91	

HB 280 INTRODUCED BY THOMAS, ET AL.

DENY TEMPORARY TOTAL DISABILITY BENEFITS UPON RELEASE TO RETURN TO WORK

BY REQUEST OF GOVERNOR

1/19	INTRODUCED		
1/19	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
1/21	FIRST READING		
1/21	FISCAL NOTE REQUESTED		
1/24	FISCAL NOTE RECEIVED		
1/28	FISCAL NOTE PRINTED		
1/31	HEARING		
2/01	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/04	2ND READING PASSED	98	1
2/06	3RD READING PASSED	97	1
	TRANSMITTED TO SENATE		
2/07	FIRST READING		
2/07	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
2/14	HEARING		
2/15	COMMITTEE REPORT—BILL CONCURRED		
2/16	2ND READING CONCURRED	49	0
2/18	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
2/21	SIGNED BY SPEAKER		
2/21	SIGNED BY PRESIDENT		
2/21	TRANSMITTED TO GOVERNOR		
2/26	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 52	EFFECTIVE DATE: 7/01/91	

HB 281 INTRODUCED BY STICKNEY, ET AL.

ALLOW HIV TEST FOR IMPAIRED PATIENT

1/19	INTRODUCED
1/19	REFERRED TO HUMAN SERVICES & AGING
1/21	FIRST READING

CHAIRMAN--BOB BACHINI
NORMAL SCHEDULE==> SITE: ROOM 312-3 DAYS: M,T,W,T,F TIME: 8:00 A.M.
SECRETARY-JO LAHTI

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0252	1/18				JUDICIARY	
FORRESTER, GARY			ALLOW 45 DAYS TO GIVE NOTICE OF RIGHT TO CLAIM CONSTRUCTION LIEN			
HB0258	1/18	2/14		PASS AS AMENDED		2/16
BACHINI, BOB			REQUIRE AUTO WARRANTY WORK TO BE PAID SAME AS RETAIL WORK -- ADMIN PENALTIES			
HB0261	1/18	2/15		PASS AS AMENDED		2/16
KILPATRICK, TOM			PROHIBIT PRICE DISCRIMINATION FOR COMMODITIES OF LIKE GRADE AND QUALITY			
HB0279	1/19	1/29		DO PASS		1/30
SCHYE, TED			PROHIBIT USE OF AUTO TELEPHONE SYS., DEVICES, OR FACSIMILE FOR SPECIFIC USE			
HB0297	1/21	1/30		PASS AS AMENDED		1/30
SPRING, JR., WILBUR			REVISE LAWS ON SURPLUS LINES INSURANCE			
HB0308	1/21	2/12				
MENAHAN, RED			AUTHORIZE PUNCHBOARD & PULLTAB GAMBLING			
HB0329	1/22	2/11		TABLED ON 02/11		
DOLEZAL, ED			QUALIFICATIONS FOR LICENSING AS MANICURIST			
HB0331	1/22	1/31		PASS AS AMENDED		2/02
KILPATRICK, TOM			DEPT OF JUSTICE RESTRICT DISCLOSURE OF INFO RELATING TO VEHICLE OWNER			
HB0348	1/22	1/31		DO PASS		2/02
GERVAIS, FLOYD			SIGNS FOR IMITATION INDIAN ARTS OR CRAFT ARTICLES			
HB0350	1/24	2/01		TABLED ON 02/18		
PAVLOVICH, BOB			PROHIBIT HEALTH CARE PROVIDERS FROM REFUSING TO ACCEPT MEDICARE ASSIGNMENTS			
HB0362	1/22	1/31		TABLED ON 02/01		
HANSON, MARIAN			ALLOWING INVESTMENT OF PUBLIC FUNDS IN FACE AMOUNT CERTIFICATES			

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By CHAIRMAN BOB BACHINI on January 29, 1991, at 8:00 a.m.

ROLL CALL

Members Present:
- Bob Bachini, Chairman (D)
- Sheila Rice, Vice-Chair (D)
- Joe Barnett (R)
- Steve Benedict (R)
- Brent Cromley (D)
- Tim Dowell (D)
- Alvin Ellis, Jr. (R)
- Stella Jean Hansen (D)
- H.S. "Sonny" Hanson (R)
- Tom Kilpatrick (D)
- Dick Knox (R)
- Don Larson (D)
- Scott McCulloch (D)
- Bob Pavlovich (D)
- John Scott (D)
- Don Steppler (D)
- Rolph Tunby (R)
- Norm Wallin (R)

Staff Present: Paul Verdon, Legislative Council
Jo Lahti, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HB 279

Presentation and Opening Statement by Sponsor:

REP. TED SCHYE, House District 18, Glasgow, said HB 279 is also sponsored by REP. BOB GILBERT, House District 22, Sidney. It is an act prohibiting the use of computerized calls pertaining to sales, not by an actual person. Even after the person receiving the call hangs up the phone, the computer still ties up the phone line for as long as the computer is making the "speel." If people have answering machines, the computerized call can tie up the answering machine. In 1989, there were 450 pieces of legislation in the United States to deal with computerized solicitation. REP. GILBERT was also going to put in a draft request for the same thing, but his bill included unsolicited FAX

messages. REP. GILBERT said that one of the problems that he had on his FAX machines, they are paying for the FAX paper for everything that comes off the machine. If they are getting unsolicited advertisements, it ties up the FAX machine and costs them money. Some concerns are that telephone companies, co-ops, Sears, Montgomery Ward, and others use computerized calls to tell people their order is in. Co-ops use it to say a bill is due. All of those are excluded in the bill. This bill pertains to unsolicited sales calls.

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members:

REP. LARSON said other states are now permitting telephone users to put computers on their telephone to track incoming calls. He asked if this bill interfere with that. **REP. SCHYE** said it would not have anything to do with that. That is a computer that is not trying to sell anything. This is for solicitation for the sales of goods only.

REP. BENEDICT said the bill pertained just to sales, but the bill says soliciting information or gathering data or statistics. There are many data-gathering companies that do use recorded messages to gather information, for example polls. **REP. SCHYE** said if somebody is trying to poll with a computer, there should still be the right to say no and not have the telephone lines tied up. If someone is going to poll, he should do it himself. If gathering data takes 20 minutes with a computer, or if the person hangs up his phone line is tied up for 20 minutes. **REP. BENEDICT** said the University of Montana business bureau uses a similar system where people punch 1 for yes or 2 for to determine results on a statewide poll. **REP. BENEDICT** asked how many other states have this law. **REP. SCHYE** said he didn't say exactly how many, but many states have introduced laws to deal with this. This bill is similar to the Wyoming law. The Texas law deals with the facsimile machines. Some of the other laws are different in their standards.

REP. CROMLEY asked **REP. SCHYE** if anything could be done on the federal level. Most of the full scale computerized calls don't relate to Montana anyway. **REP. SCHYE** said the hope is that people will look at the law and decide not to come into Montana. He doesn't know if there is anything on the federal level. **REP. CROMLEY** said he has heard that most people get a dial tone after they hang up. **REP. SCHYE** said according to the articles that he has read if a person hangs up and the automated call is still running, the telephone line will be tied up. **CHAIRMAN BACHINI** said the calling phone has the controlling line. If the receiver hangs up and the caller doesn't, the receivers line is tied up. **REP. SCHYE** said some computerized calls are different. In his research, he found some of them do hang up after the receiver of

the call hangs up his phone. Some of them are sophisticated enough to do that but not all of them.

Closing by Sponsor:

REP. SCHYE said he took his bill to the telephone companies. He did give it to the US West lobbyist and the rural coop telephone boards. They suggested some of the changes in the bill. The bill wasn't written exactly like he had it. The legislation needs to be started. At least when someone calls on the phone, a person can say no or don't call again. That's what this law will do.

HEARING ON SB 2

Presentation and Opening Statement by Sponsor:

SEN. TOM HAGER, Senate District 48, Billings, said SB 2 was put in at the request of the State Auditor. It repeals the provision that makes the regional ratemaking law temporary. When the law was passed two years ago, it had a sunset provision. SB 2 makes that law permanent. Montana has a competitive rating law. However, in certain situations competition may not be sufficient to assure rates are appropriate. In these cases the Commissioner of Insurance needs to have additional authority to gather information and regulate insurers. This act provides additional authority for lines that are non-competitive. The act gives the Commissioner of Insurance the mechanism to deal with future specific problems, for example, the obstetrics crisis, the daycare crisis, liquor liability, and court liability insurance crisis. The act has been available to the Commissioner of Insurance since the 1989 legislative session. Since enactment, the Commissioner's office has been gathering data for use in insuring rates for lines that are non-competitive or volatile. The Commissioner has hired an actuary to assist with the implementation of legislation. Since enactment, two of the largest raters of medical malpractice in Montana have lowered their rates by approximately 17 percent.

Proponents' Testimony:

Susan Witte, Chief Legal Counsel, State Auditor's Office, presented written testimony. EXHIBIT 1

Jerry Loendorf, Montana Medical Association, said the Association is particularly concerned about non-competitive lines. The law enacted last session defines non-competitive lines as being a small number of insurers willing to transact a particular line. In the medical malpractice area, there are now only three insurers that actively sell the insurance, although others replace current policies. Medical malpractice rates remain extremely high, although, this past year one insurer did reduce its rates, which is the first time it has happened in perhaps 20 years. This bill gives insurers an incentive to comply with its

government intervention. He said at some time it is necessary for the government to get involved. One example, is the seat belt law.

EXECUTIVE ACTION ON HB 279

Motion: REP. BOB PAVLOVICH moved HB 279 DO PASS.

Discussion: REP. RICE said it seemed the biggest objection to this bill was the fact that it tied up your telephone line, that you couldn't just hang up. Is that valid? Is the technology here or coming that when you hang up the phone is disconnected. She has concerns about this limiting free speech. REP. SCOTT said you can tie up your own lines by having someone call you, hang up your phone, and pick it back up in five minutes and the caller will still be here. REP. CROMLEY said in Billings phones could be tied up.

REP. BACHINI said a party had called him and forgot to hang up the phone to close the connection, and he finally had to go over to the house and ask him to hang up the unit. Is that statewide with U.S. West?

REP. STEPPLER called his wife, his niece hung up the phone, and when no dial tone came on, there was no change. He waited for four minutes and redialed.

REP. LARSON spoke as a strong supporter of the bill. There is the right of privacy and this bill supports that.

REP. HANSON addressed the difference between here and Billings where they have new electronic equipment. They spent millions updating it. That is why there is the difference. If you have had facsimile machines and have had the advertisers start sending stuff into the fax machines, it really does tie it up. I support this bill wholeheartedly.

REP. CROMLEY said he supports the bill although he didn't think it would do much good.

REP. BENEDICT supports the intent of the bill with the exception of soliciting information and gathering data. Those are two areas he is really concerned with. He has done polls at the radio station, and been involved with the University polls where they have to call 500-700 phone calls. They record that message and send it out. If you agree with the sales tax, push one; if you don't agree, push two. That solicitation to gather data maybe don't belong in there.

REP. BACHINI disagreed, saying that if that poll needs to be taken, they should have that person to person poll, where you at least have the opportunity to say no. Testimony stated that some of the automated devices will continue to go the length of the question that was asked. If it does that is his opposition.

REP. LARSON asked **REP. CROMLEY** if out of state calls are covered by ITC regulations? Is there any regulation over out of state calls. **Mr. Verdon** said the Communications Commission has authority.

REP. WALLIN said his wife gets canned messages that her order is in, and it is always the same. Would that be prohibited under this bill? **REP. BACHINI** said that would not be prohibited under this bill.

Vote: **HB 279 DO PASS** with **REP. RICE** voting no.

EXECUTIVE ACTION ON SB 2

Motion: **REP. STELLA JEAN HANSEN MOVED SB 2 BE CONCURRED IN.**

Motion to amend: **REP. SONNY HANSON** moved that the section dealing with the expiration in 1993 be reinserted. **REP. HANSEN** objected. In a previous grueling session it was obvious there would be trouble if we didn't get an actuary and determine what kinds of claims were being settled in this state as to malpractice, etc. The insurance rate did not reflect any of the business that went on in Montana. Those actuaries were all out of the state. We have been working hard ever since, first to get appropriations, and to get the permission to hire this actuary every session. We couldn't get enough money in it for the price they thought we could. We finally got this actuary, and we should give him all the latitude he needs to compile the data. We get jerked around so badly by companies out of the State away from almost the Western part of the country and those actuarial figures were imposed upon us in Montana and determined in spite of our insurance rates. That was the most unfair thing of all the insurance business that we had to in the special session that we heard in this committee. Now we have a tool where we are going to find out, and this bill should not be limited at all. It should go through just the way it is and let them work in the Auditor's office and figure out some way to establish actuarial figures that will help us lower the rates. We have half the claims against the insurer that other states have had. Why should that determine our insurance rates?

REP. BACHINI asked if he would consider changing his motion to a four year period? **REP. SONNY HANSON** said he would accept either. To him it is important that the proof exists. We haven't had any results from what has been created to this date. They have just got the individual on board, in fact they haven't developed any rules or regulations. Before this becomes a permanent aspect of our statutes, we should have a track record on it.

REP. PAVLOVICH agreed but disagrees with the way they handle rulemaking authority. For rulemaking authority you should have an impartial hearing on it. Under rulemaking authority they can do anything until December 1990. That was two months ago, and yet they want to make it permanent. They haven't had time to let the

HOUSE OF REPRESENTATIVES

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL **DATE** Jan. 27, 1991

NAME	PRESENT	ABSENT	EXCUSED
REP. JOE BARNETT			
REP. STEVE BENEDICT	✓		
REP. BRENT CROMLEY	✓		
REP. TIM DOWELL			✓
REP. ALVIN ELLIS, JR.	✓		
REP. STELLA JEAN HANSEN	✓		
REP. H.S."SONNY" HANSON	✓		
REP. TOM KILPATRICK	✓		
REP. DICK KNOX	✓		
REP. DON LARSON	✓		
REP. SCOTT MCCULLOCH	✓		
REP. BOB PAVLOVICH	✓		
REP. JOHN SCOTT	✓		
REP. DON STEPPLER	✓		
REP. ROLPH TUNBY	✓		
REP. NORM WALLIN	✓		
REP. SHEILA RICE, VICE-CHAIR	✓		
REP. BOB BACHINI, CHAIRMAN	✓		

CHAIRMAN--J. D. LYNCH
NORMAL SCHEDULE==> SITE: ROOM 410 DAYS: M,T,W,T,F TIME: 10:00 A.M.

SECRETARY-DARA ANDERSON

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0209	1/25	2/12		CONCUR AS AMENDED		3/18
WALLIN, NORM			PERFECT LIEN ON VEHICLE ON DATE LIEN NOTICE DELIVERED TO COUNTY TREASURER			
HB0233	2/27				NATURAL RESOURCES	
BARDANOUVE, FRANCIS			PROVIDE FIRST RIGHT TO PURCHASE RAILROAD RIGHT-OF-WAY TO SPECIFIC PERSONS			
HB0241	2/12	3/15		ADVERSE RPT ADOPT		3/20
WHALEN, TIM			DISCLOSURE OF LOSS AND EXPENSE EXPERIENCE BY PROPERTY AND CASUALTY INSURERS			
HB0248	1/31	3/12		CONCUR		3/12
JOHNSON, ROYAL			REVISE LAWS RELATING TO SECURITIES & REGULATING VARIABLE ANNUITY PRODUCTS			
HB0252	2/11	3/07		CONCUR AS AMENDED		3/21
FORRESTER, GARY			ALLOW 45 DAYS TO GIVE NOTICE OF RIGHT TO CLAIM CONSTRUCTION LIEN			
HB0258	2/25	3/05		CONCUR AS AMENDED		3/07
BACHINI, BOB			REQUIRE AUTO WARRANTY WORK TO BE PAID SAME AS RETAIL WORK -- ADMIN PENALTIES			
HB0260	2/27	3/19		CONCUR		3/19
BARNHART, BEVERLY			REQUIRE INSURANCE TO COVER ADOPTED CHILD SAME AS NATURAL CHILDREN OF INSURED			
HB0261	2/27	3/22		CONCUR AS AMENDED		3/26
KILPATRICK, TOM			PROHIBIT PRICE DISCRIMINATION FOR COMMODITIES OF LIKE GRADE AND QUALITY			
HB0279	2/05	3/07		CONCUR AS AMENDED		3/07
SCHYE, TED			PROHIBIT USE OF AUTO TELEPHONE SYS., DEVICES, OR FACSIMILE FOR SPECIFIC USE			
HB0297	2/05	3/12		CONCUR		3/12
SPRING, JR., WILBUR			REVISE LAWS ON SURPLUS LINES INSURANCE			
HB0331	2/08	3/13		CONCUR		3/13
KILPATRICK, TOM			DEPT OF JUSTICE RESTRICT DISCLOSURE OF INFO RELATING TO VEHICLE OWNER			

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By Chairman J.D. Lynch, on March 7, 1991, at 10:00 a.m.

ROLL CALL

Members Present:
J.D. Lynch, Chairman (D)
John Jr. Kennedy, Vice Chairman (D)
Betty Bruski (D)
Eve Franklin (D)
Delwyn Gage (R)
Thomas Hager (R)
Jerry Noble (R)
Gene Thayer (R)
Bob Williams (D)

Members Excused: None

Staff Present: Bart Campbell (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON HOUSE BILL 725

Presentation and Opening Statement by Sponsor:

Representative Wilbur Spring, sponsor of the bill, stated that this bill changes two words. It changes thirty seven to forty eight months as the length of time to pay off a loan between one thousand and twenty five hundred dollars.

Proponents' Testimony:

Jerry Loendorf, representing the Montana consumer finance association, stated that the bill extends the permissible term of the loan in the amount of one thousand up to twenty five hundred dollars from thirty seven months to forty eight months. This is a provision that would be little used. Assuming you are talking about an automobile for twenty five hundred dollars, an automobile like this is not likely to last for more than two or three years, so you wouldn't make that type of loan. If you are talking about an aluminum boat that might be ten years old, and

that will last for another ten years, in this situation, you would be willing to make such a loan. Although this is a provision that would be of little use, there are a number of situations where it would be a benefit.

Opponents' Testimony:

None

Questions From Committee Members:

None

Closing by Sponsor:

Representative Spring closed.

HEARING ON HOUSE BILL 279

Presentation and Opening Statement by Sponsor:

Representative Ted Schye, sponsor of the bill, stated that this bill is an act prohibiting the use of automated telephone systems, devices, or facsimile machines for specific purposes. It is a bill that would do away with the recorded messages, not the live operator telemarketing, but the ones that come across that are completely automated. The computer can plug up your answering machines with these messages. Across the United States in the last year and a half to two years, there has been four hundred and fifty bills trying to regulate these computerized calls. This legislation was copied from Wyoming legislation. He proposed an amendment to address the concerns of the telephone companies. They wanted it to be clarified a little more that if a live operator comes on a telemarketing, then they can switch to a recorded message if they have permission from the person there.

Proponents' Testimony:

Russ Cannon, representing the direct marketing association, stated that they are the people who do prepare and deliver these kinds of recorded messages. They have no objections to the bill with the amendments proposed by Representative Schye. This conforms with the direct marketing association's ethics, which requires the prior permission of the live operator before they deliver this type of recorded message.

Dan Walker, representing US West, stated that they support the bill as amended. They have interaction with the industry that does this, and they have taken a position in favor of live operator introduction.

Cathy Brightwell, representing AT&T, stated that AT&T supports regulating automatic dialing devices. Reasonable restrictions are needed to curve this misuse. They can't let

blanket prohibitions unnecessarily affect their legitimate uses. They support the bill with the amendments proposed by Representative Schye.

Leo Barry, representing MCI telecommunications, stated that they support the bill as amended.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Gage asked if there was a definition of "person" in title forty five chapter eight.

Representative Schye replied that there is not a definition.

Senator Gage asked if imprisonment of up to six months is a viable fine for a violation of this nature.

Representative Schye replied that the thing that they are trying to get at are the recorded phone calls.

Senator Williams asked if there was any history in any state of them tracking somebody down that has been guilty of this.

Representative Schye replied that most of the legislation that is being talked about is fairly new legislation. It would be fairly hard to track those people, but it would get a message out to the one's that are doing it illegally that it is not required.

Senator Lynch stated that he feels that they should strike that section.

Representative Schye replied that a lot of the telemarketers are not from in state. If it came out across the codes that Montana made this a law, it would let a lot of them know that the law is there and that it is illegal to use the recorded message without a live voice.

Senator Hager asked if you hang up on a computerized call, does it disconnect.

Representative Schye replied if you hang up on a computerized call, it will hang up rather quickly.

Senator Hager stated that he was concerned about the people who have car phones. They pay a lot of money to have people call them up.

Dan Walker stated that the call should time out from six to twenty seconds.

Closing by Sponsor:

Representative Schye closed.

HEARING ON HOUSE BILL 252

Presentation and Opening Statement by Sponsor:

Representative Gary Forrester, sponsor of the bill, stated

haven't brought in anyone who can say that the law isn't working. This bill, with the amendments, merely involves the consumer advocates. Keep in mind, we are talking about third party. If a dispute arises between a general contractor and a homeowner, the small business person has no recourse. That what this bill is about. This is something that is needed. It isn't going to hurt anyone except the consumer advocates. You are not protecting the consumer advocates, you are protecting mainstreet Montana.

EXECUTIVE ACTION ON HOUSE BILL 725

Motion:

Senator Noble moved that HB 725 be concurred in.

Discussion:

None

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

The motion that HB 725 be concurred in passed unanimously. Senator Williams will carry HB 725 to the floor.

EXECUTIVE ACTION ON HOUSE BILL 279

Motion:

Senator Williams moved to amend HB 279.

Senator Gage moved to amend HB 279 by striking the imprisonment and putting a fine at twenty five hundred dollars.

Senator Noble moved that HB 279 be concurred in as amended.

Discussion:

None

Amendments, Discussion, and Votes:

The motion made by Senator Williams to amend HB 279 passed unanimously.

Senator Gage stated that maybe they should strike the imprisonment part of the bill and maybe increasing the fine.

The motion made to amend HB 279 by striking the imprisonment and putting a fine at twenty five hundred dollars passed unanimously.

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

DATE 3/7/91

52ND LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BRUSKI	X		
SENATOR FRANKLIN	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR NOBLE	X		
SENATOR THAYER	X		
SENATOR WILLIAMS	X		
SENATOR KENNEDY	X		
SENATOR LYNCH	X		

Each day attach to minutes.

COMMITTEE ON BUSINESS & INDUSTRY

DATE 2/14/11

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
GEORGE BENNETT	MONT. BANKERS ASSN	HB252		X
Bill LEARY	Mont. Bankers Assn	HB252		X
Riley Johnson	Western Building Material	HB252	X	
Bob Pyfer	MT Credit Unions League	HB252		X
Ross Carver	Mt Hardware Assn	HB279	X w/ Amend	
Brad Walterskirchen	Heritage Bank, Inc Gt. Falls	HB 252		X
Jerry Forrest	HD #95	HB 252	X	
Robert P. Bone	Flathead Home Builders	HB 252	X	
David Cuel	Mt Lien & Homebuilders	HB252	X	
Jim Caras	Missoula Homebuilders	HB252	X	
Dan T. Landry	MT Consumer Finance Assn	H 725	X	
Dennis T. Green	Mt. Consumer Finance Ass	H 725	X	
Roger Tippy	MT Independent Bankers	HB252		X
Cathy Brightwell	AT&T	HB279	X w/ amend	
Jim Whelan	US WEST	HB279	w/ Amend X	

(Please leave prepared statement with Secretary)

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 7 day of March, 1991.

Name: Cathy Brightwell - AT&T

Address: 1 N. Last Chance Gulch

Helena MT

Telephone Number: 449-6776

Representing whom?

AT&T

Appearing on which proposal?

HB 279

Do you: Support? X Amend? X Oppose? ____

Comments:

Support with Rep. Schye's amendments.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Amendments to House Bill No. 279
Third Reading Copy

For the Committee on Business and Industry

Prepared by Bart Campbell
March 7, 1991

1. Title, line 7.
Strike: "PENALTIES"
Insert: "A FINE"

2. Page 2, line 6.
Following: "relationship."
Insert: "This section does not prohibit the use of an automated telephone system or device if the permission of the called party is obtained by a live operator before the recorded message is delivered."

3. Page 2, lines 7 through 9.
Strike: "guilty" on line 7 through "and" on line 9
Insert: "subject to"
Strike: "$750"
Insert: "$2,500"

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/7/91 Bill No. AB 2-79 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	Y	
SENATOR THAYER	X	
SENATOR NOBLE	Y	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	Y	

DARA ANDERSON
Secretary

J.D. LYNCH
Chairman

Motion: To AMEND

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/7/91 Bill No. HB 219 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON
Secretary

J.D. LYNCH
Chairman

Motion: STRIKE AMENDMENT, DOUBLE FINE $250.

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/7/91 Bill No. HB 279 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON — Secretary

J.D. LYNCH — Chairman

Motion: Be Concurred In As Amended

Lynch To Carry

SENATE STANDING COMMITTEE REPORT

March 7, 1991

MR. PRESIDENT:
We, your committee on Business and Industry having had under consideration House Bill No. 279 (third reading copy -- blue), respectfully report that House Bill No. 279 be amended and as so amended be concurred in:

1. Title, line 7.
Strike: "PENALTIES"
Insert: "A FINE"

2. Page 2, line 6.
Following: "relationship."
Insert: "This section does not prohibit the use of an automated telephone system or device if the permission of the called party is obtained by a live operator before the recorded message is delivered."

3. Page 2, lines 7 through 9.
Strike: "guilty" on line 7 through "and" on line 9
Insert: "subject to"
Strike: "$750"
Insert: "$2,500"

Signed: _____
John "J.D." Lynch, Chairman

3-7-91
Amd. Coord.

SB 3-7 3:40
Sec. of Senate